

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|---------------------------------|---|-----------------------------------|
| IVAN WHITE, | : | Civil No. 1:16-CV-675 |
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| Plaintiffs, | : | |
| | : | (Judge Mannion) |
| v. | : | |
| | : | |
| DARRELL WIREMAN, et al., | : | (Magistrate Judge Carlson) |
| | : | |
| Defendants. | : | |

MEMORANDUM AND ORDER¹

The background of this order is as follows:

This is a federal civil rights lawsuit filed by a state prisoner against various correctional officials. In the course of this litigation, the plaintiff filed an amended complaint. (Doc. 20.) The defendants subsequently moved to dismiss this amended complaint. (Doc. 21.) Following the filing of this motion to dismiss the plaintiff filed a second amended complaint. (Doc. 27.) The defendants have now moved to dismiss this second amended complaint. (Doc. 28.)

We believe that this development has substantive significance for the parties with respect to the initial motion to dismiss the first amended complaint filed in this case (Doc. 20) since, as a matter of law, the second amended complaint takes the place

¹On February 7, 2018, the above-captioned case was reassigned to the undersigned for further proceedings.

of the prior amended complaint, effectively invalidating that prior amended complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) ("[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect"); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 1476 (2d ed. 1990) ("A pleading that has been amended ... supersedes the pleading it modifies.... Once an amended pleading is interposed, the original pleading no longer performs any function in the case...."). Since the amended complaint in this case has been replaced by a second amended complaint, the first amended complaint is now a nullity, and any motion to dismiss challenging counts contained in that first amended complaint is now moot. Therefore, we will DISMISS the pending motion to dismiss the plaintiff's first amended complaint (Doc. 20) as moot. We will by a separate Report and Recommendation address the pending motion to dismiss the plaintiff's second amended complaint.

SO ORDERED, this 8th day of February, 2018.

/s/ Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge